

1 MARY KATE SULLIVAN (State Bar No. 180203)

Email: mks@severson.com

2 M. ELIZABETH HOLT (State Bar No. 263206)

Email: meh@severson.com

3 SEVERSON & WERSON

A Professional Corporation

4 One Embarcadero Center, Suite 2600

San Francisco, CA 94111

5 Telephone: (415) 398-3344

Facsimile: (415) 956-0439

6 Attorneys for Defendant

7 SUNTRUST MORTGAGE, INC.

8 UNITED STATES DISTRICT COURT

9 NORTHERN DISTRICT OF CALIFORNIA

10 SAN JOSE DIVISION

11
12 CLAUDE & PAMELA BENNETT,

13 Plaintiffs,

14 vs.

15 SUNTRUST MORTGAGE, INC.,

16 Defendant.

Case No.5-10-cv-03375 JF

**DECLARATION OF M. ELIZABETH
HOLT IN SUPPORT OF
ADMINISTRATIVE MOTION TO
CHANGE TIME PURSUANT TO CIVIL
LOCAL RULE 6-3**

Judge: The Hon. Jeremy Fogel

Complaint Date: August 2, 2010

Trial Date: None Set

17
18
19
20
21 I, M. Elizabeth Holt, declare:

22 1. I am an associate at Severson & Werson, P.C., in San Francisco, California, and an
23 attorney licensed to practice in the state of California. I represent defendant SunTrust Mortgage,
24 Inc. ("SunTrust") in the above-captioned matter. If called as a witness regarding the matters
25 contained herein, I could testify about such matters competently.

26 2. On September 13, 2010, SunTrust filed a motion to dismiss the complaint filed by
27 Claude and Pamela Bennett (the "Bennetts"). The motion is noticed for hearing on November 12,
28

1 2010, at 9:00 a.m. The Bennetts have not opposed the motion and the deadline for doing so has
2 now passed.

3 3. The Court has also scheduled a case management conference for November 12,
4 2010, at 10:30 a.m. *See* Order Setting Initial Case Management Conference and ADR Deadlines,
5 filed August 2, 2010, at 1-2. The same order sets certain discovery and ADR deadlines for
6 October 22, 2010, and November 5, 2010. *Id.*

7 4. This Court has already expressed skepticism as to the viability of the current
8 version of the Bennetts' complaint. *See* Order of August 3, 2010, at 1 ("Plaintiffs' specific
9 factual allegations are insufficient to enable it to evaluate the merits of Plaintiffs' claims.
10 Although the complaint is thirty-three pages in length, virtually none of the allegations describe
11 the details of Plaintiffs' loan or Defendants' alleged actions with respect to the loan
12 transaction.").

13 5. As a result of these developments, particularly the Bennetts' failure to oppose
14 SunTrust's motion to dismiss, the undersigned believes that the case management conference and
15 the associated discovery and ADR deadlines are premature. SunTrust would be prejudiced if it
16 were required to engage in initial discovery with the pro se plaintiffs, given the present
17 complaint's incoherency. SunTrust would also be prejudiced if it were required to comply with
18 the ADR process at this point in time, because the complaint is so vague and ambiguous that
19 SunTrust cannot reasonably be expected to evaluate the strength of the Bennetts' claims against
20 it.

21 6. SunTrust has previously requested, and the Court has granted, one 14-day
22 extension of time in which to respond to the Bennetts' complaint. *See* Order of August 24, 2010.

23 7. SunTrust can conceive of no prejudice to the Bennetts that could result from a
24 continuance of the case management conference and associated deadlines.

25 ///

26 ///

27 ///

28 ///

1 8. In light of these considerations, SunTrust respectfully requests the Court to
2 continue the case management conference by 90 days, along with all associated discovery and
3 ADR deadlines.

4 DATED: October 26, 2010

SEVERSON & WERSON
A Professional Corporation

5
6 By: /s/ M. Elizabeth Holt
7 M. Elizabeth Holt

8 Attorneys for Defendant
9 SUNTRUST MORTGAGE, INC.
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

CERTIFICATE OF SERVICE*Bennett v. SunTrust Mortgage, Inc.*

I, the undersigned, declare that I am over the age of 18 and am not a party to this action. I am employed in the City of San Francisco, California; my business address is Severson & Werson, One Embarcadero Center, Suite 2600, San Francisco, CA 94111.

On the date below I served a copy, with all exhibits, of the following document(s):

- **DECLARATION OF M. ELIZABETH HOLT IN SUPPORT OF ADMINISTRATIVE MOTION TO CHANGE TIME PURSUANT TO CIVIL LOCAL RULE 6-3**

on all interested parties in said case addressed as follows:

Claude and Pamela Bennett
508 Herrmann Drive
Monterey, CA 93940

Telephone:
Facsimile:
Email:
Plaintiffs in Pro Per

☒ **(BY MAIL)** By placing the envelope for collection and mailing following our ordinary business practices. I am readily familiar with the firm's practice of collecting and processing correspondence for mailing. On the same day that correspondence is placed for collection and mailing, it is deposited in the ordinary course of business with the United States Postal Service in San Francisco, California in sealed envelopes with postage fully prepaid.

I declare under penalty of perjury under the laws of the United States of America that the foregoing is true and correct. I declare that I am employed in the office of a member of the Bar of this Court at whose direction the service was made. This declaration is executed in San Francisco, California, on October 26, 2010.

/s/ Sylvia Coleman
Sylvia Coleman